

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

E.B., a minor, by and through his next friend, WILLIAM BOYER,	:	CIVIL ACTION NO. 1:09-CV-1920
Plaintiff	:	
	:	(Judge Conner)
	:	
v.	:	
	:	
WEST SHORT SCHOOL DISTRICT,	:	
Defendant	:	

AGREED TEMPORARY CONSENT ORDER

It is hereby consented to and otherwise stipulated by and between Plaintiff, E.B., a minor by and through his next friend, William Boyer, and the Defendant West Shore School District, through their respective counsel as indicated by their signatures below that:

WHEREAS, Plaintiff has filed a Complaint challenging the alleged denial of Plaintiff's right to wear a pro-life t-shirt stating "Abortion is not Healthcare;"

WHEREAS, Plaintiff has also challenged portions of two of Defendant's Policies entitled "Student Expression" and "Dress and Grooming;"

WHEREAS, Plaintiff is currently drafting a Motion for Preliminary Injunction requesting this Court to enjoin Defendant and its officials from prohibiting Plaintiff from wearing his pro-life t-shirts, and from enforcing the challenged provisions of the Expression and Grooming Policies;

WHEREAS, the parties have reached the following agreement:

- a.) Defendant hereby agrees that Plaintiff will be permitted to wear his “Abortion is not Healthcare” t-shirt, and other pro-life and/or religious t-shirts;
- b.) Plaintiff agrees that when wearing his t-shirts, he will be subject to the material and substantial disruption standard as enunciated in *Tinker*;
- c.) Defendant agrees not to enforce the following challenged provisions of the Student Expression Policy: (second bullet point: “seek to establish the supremacy of a particular religious denomination, sect, or point of view”; and fourth bullet point: “contain material otherwise deemed harmful to impressionable students”);
- d.) Defendant also agrees not to enforce the challenged provisions of the Dress and Grooming Policy (paragraph 6, “clothing which creates a hostile educational environment or evidences discriminatory bias or animus is prohibited”); and
- e.) Nothing herein shall prohibit the District from continuing to enforce its policies to restrict: (i) Student expression that it reasonably concludes will materially and substantially disrupt the work and discipline of the school or interfere with the rights of others; (ii) student speech that is offensively lewd and indecent; (iii) student speech that it reasonably regards as encouraging illegal drug or alcohol use.

WHEREAS, based on this agreement that Plaintiff is permitted to engage in such expression as defined above, Plaintiff agrees not to file a Motion for a Preliminary Injunction.

NOW, THEREFORE, it is ORDERED, ADJUDGED, and DECREED as follows:

- 1.) Defendant will permit Plaintiff to wear his "Abortion is not Healthcare" t-shirt, and other pro-life and/or religious t-shirts;
- 2.) Plaintiff will be subject to the material and substantial disruption standard as enunciated in *Tinker*;
- 3.) Defendant will not enforce the following provisions of the Student Expression Policy: (second bullet point: "seek to establish the supremacy of a particular religious denomination, sect, or point of view"; and fourth bullet point: "contain material otherwise deemed harmful to impressionable students");
- 4.) Defendant will not enforce the challenged provisions of the Dress and Grooming Policy (paragraph 6, "clothing which creates a hostile educational environment or evidences discriminatory bias or animus is prohibited").
- 5.) Nothing herein shall prohibit the District from continuing to enforce its policies to restrict: (i) Student expression that it reasonably concludes will materially and substantially disrupt the work and discipline of the school or interfere with the rights of others; (ii) student speech that is offensively lewd and

indecent; (iii) student speech that it reasonably regards as encouraging illegal drug or alcohol use.

6.) This Temporary Order shall lapse on its own terms at 12:01 a.m. on January 15, 2010 unless extended by mutual written agreement of the parties or further Order of this Court.

7.) If such agreement or further Order of this Court does not occur by such time, Plaintiff is free to file for a Preliminary or Permanent Injunction or other such appropriate relief.

SO ORDERED THIS 19TH DAY OF OCTOBER, 2009.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge